
HOUSE JOINT RESOLUTION No. 3

DIGEST OF INTRODUCED RESOLUTION

Citations Affected: Article 7 of the Indiana Constitution.

Synopsis: Election of justices and judges. Requires justices of the supreme court and judges of the court of appeals to be elected by the voters. Provides that the members of the supreme court shall select the chief justice. Eliminates the judicial nominating commission. This proposed amendment has not been previously agreed to by a general assembly.

Effective: This proposed amendment must be agreed to by two consecutive general assemblies and ratified by a majority of the state's voters voting on the question to be effective.

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January 23, 2003, read first time and referred to Committee on Rules and Legislative Procedures.

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PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special General Assembly.

HOUSE JOINT RESOLUTION No. 3

A JOINT RESOLUTION proposing an amendment to Article 7 of the Indiana Constitution concerning courts and court officers.

Be it resolved by the General Assembly of the State of Indiana:

- 1 SECTION 1. The following amendment to the Constitution of the
- 2 State of Indiana is proposed and agreed to by this, the One Hundred
- 3 Thirteenth General Assembly of the State of Indiana, and is referred to
- 4 the next General Assembly for reconsideration and agreement.
- 5 SECTION 2. ARTICLE 7, SECTION 3 OF THE CONSTITUTION
- 6 OF THE STATE OF INDIANA IS AMENDED TO READ AS
- 7 FOLLOWS: Section 3. Chief Justice. The Chief Justice of the State
- 8 shall be **a member of the Supreme Court and shall be** selected by the
- 9 ~~judicial nominating commission from the~~ members of the Supreme
- 10 Court ~~and he to serve as Chief Justice. The Chief Justice~~ shall retain
- 11 that office for a period of five years, subject to reappointment in the
- 12 same manner, except that a member of the Court may resign the office
- 13 of Chief Justice without resigning from the Court. During a vacancy in



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the office of Chief Justice caused by absence, illness, incapacity or resignation, all powers and duties of that office shall devolve upon the member of the Supreme Court who is senior in length of service and if equal in length of service the determination shall be by lot until such time as the cause of the vacancy is terminated or the vacancy is filled.

The Chief Justice of the State shall appoint such persons as the General Assembly by law may provide for the administration of ~~his the~~ **Chief Justice's** office. The Chief Justice shall have prepared and submit to the General Assembly regular reports on the condition of the courts and such other reports as may be requested.

SECTION 3. ARTICLE 7, SECTION 9 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 9. ~~Judicial Nominating Commission on Judicial Qualifications.~~ **There shall be one judicial nominating commission on judicial qualifications** for the Supreme Court and Court of Appeals. ~~This commission shall, in addition, be the commission on judicial qualifications for the Supreme Court and Court of Appeals.~~

The ~~judicial nominating~~ **commission on judicial qualifications** shall consist of seven members, a majority of whom shall form a quorum, one of whom shall be the Chief Justice of the State or a Justice of the Supreme Court whom ~~he the~~ **Chief Justice** may designate, who shall act as chairman. Those admitted to the practice of law shall elect three of their number to serve as members of said commission. All elections shall be in such manner as the General Assembly may provide. The Governor shall appoint to the commission three citizens, not admitted to the practice of law. The terms of office and compensation for members of ~~a judicial nominating~~ **the commission on judicial qualifications** shall be fixed by the General Assembly. No member of ~~a judicial nominating~~ **the commission on judicial qualifications** other than the Chief Justice or ~~his the~~ **Chief Justice's** designee shall hold any other salaried public office. No member shall hold an office in a political party or organization. No member of the ~~judicial nominating~~ **commission on judicial qualifications** shall be eligible for appointment to a judicial office so long as ~~he the member~~ is a member of the commission and for a period of three years thereafter.

SECTION 4. ARTICLE 7, SECTION 10 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 10. ~~Selection of Justices of the Supreme Court and Judges of the Court of Appeals.~~ **(a) A vacancy in a judicial office in the Supreme Court or Court of Appeals shall be filled by the Governor without regard to political affiliation. from a list of three nominees**

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presented to him by the judicial nominating commission. If the Governor shall fail to make an appointment from the list within sixty days from the day it is presented to him, the vacancy occurs, the appointment shall be made by the Chief Justice or the acting Chief Justice. from the same list.

(b) To be eligible for nomination as a justice of the Supreme Court or Judge of the Court of Appeals, a person must be domiciled within the geographic district, a citizen of the United States, admitted to the practice of law in the courts of the State for a period of not less than ten (10) years or must have served as a judge of a circuit, superior, or criminal court of the State of Indiana for a period of not less than five (5) years.

SECTION 5. ARTICLE 7, SECTION 11 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 11. ~~Tenure of Justices of Supreme Court and Judges of the Court of Appeals.~~ (a) A justice of the Supreme Court or judge of the Court of Appeals shall serve until the next general election following the expiration of two years from the date of appointment, and subject to approval or rejection by the electorate, shall continue to serve for terms of ten years, so long as he retains his office. **be elected by the voters.** In the case of a justice of the Supreme Court, the electorate of the entire state shall vote on the question of approval or rejection. **for the office.** In the case of judges of the Court of Appeals, the electorate of the geographic district in which he a judge serves shall vote on the question of approval or rejection **for the office. The term of office for a justice of the Supreme Court is ten (10) years. The term of office of a judge of the Court of Appeals is ten (10) years.**

(b) Every such justice and judge shall retire at the age specified by statute in effect at the commencement of ~~his the justice's or judge's~~ current term.

(c) Every such justice or judge is disqualified from acting as a judicial officer, without loss of salary, while there is pending (1) an indictment or information charging ~~him the justice or judge~~ in any court in the United States with a crime punishable as a felony under the laws of Indiana or the United States, or (2) a recommendation to the Supreme Court by the commission on judicial qualifications for ~~his the justice's or judge's~~ removal or retirement.

(d) On recommendation of the commission on judicial qualifications or on its own motion, the Supreme Court may suspend such justice or judge from office without salary when in any court in the United States ~~he the justice or judge~~ pleads guilty or no contest or is found guilty of

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1 a crime punishable as a felony under the laws of Indiana or the United
 2 States, or of any other crime that involves moral turpitude under that
 3 law. If ~~his the justice's or judge's~~ conviction is reversed, suspension
 4 terminates, and ~~he the justice or judge~~ shall be paid ~~his the justice's~~
 5 ~~or judge's~~ salary for the period of suspension. If ~~he the justice or~~
 6 ~~judge~~ is suspended and ~~his the justice's or judge's~~ conviction
 7 becomes final, the Supreme Court shall remove ~~him the justice or~~
 8 ~~judge~~ from office.

9 (e) On recommendation of the commission on judicial
 10 qualifications, the Supreme Court may (1) retire such justice or judge
 11 for disability that seriously interferes with the performance of ~~his the~~
 12 ~~justice's or judge's~~ duties and is or is likely to become permanent, and
 13 (2) censure or remove such justice or judge, for action occurring not
 14 more than six years prior to the commencement of ~~his the justice's or~~
 15 ~~judge's~~ current term, when such action constitutes willful misconduct
 16 in office, willful and persistent failure to perform ~~his the justice's or~~
 17 ~~judge's~~ duties, habitual intemperance, or conduct prejudicial to the
 18 administration of justice that brings the judicial office into disrepute.

19 (f) A justice or judge so retired by the Supreme Court shall be
 20 considered to have retired voluntarily. A justice or judge so removed
 21 by the Supreme Court is ineligible for judicial office, and pending
 22 further order of the Court, ~~he the justice or judge~~ is suspended from
 23 practicing law in this State.

24 (g) Upon receipt by the Supreme Court of any such
 25 recommendation, the Court shall hold a hearing, at which such justice
 26 or judge is entitled to be present, and make such determinations as
 27 shall be required. No justice shall participate in the determination of
 28 such hearing when it concerns ~~himself that justice~~.

29 (h) The Supreme Court shall make rules implementing this section
 30 and provide for convening of hearings. Hearings and proceedings shall
 31 be public upon request of the justice or judge whom it concerns.

32 (i) No such justice or judge shall, during ~~his the justice's or judge's~~
 33 term of office, engage in the practice of law, run for elective office
 34 other than a judicial office, directly or indirectly make any contribution
 35 to, or hold any office in, a political party or organization or take part in
 36 any political campaign.

37 SECTION 6. (a) Upon the ratification of this amendment by a
 38 majority of the electors voting on the amendment, the judicial
 39 nominating commission is abolished, and the terms of the justices
 40 of the Supreme Court and judges of the Court of Appeals on the
 41 date of the ratification are continued until the earlier of the
 42 following:



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(1) The date the term would have terminated if this amendment had not been ratified.

(2) The date specified by the General Assembly by bill.

(b) The General Assembly shall provide for the staggering of the terms of the justices on the Supreme Court and the judges on the Court of Appeals. As far as practical, the General Assembly shall provide, by bill, that:

(1) One-fourth (1/4) of the offices for justices on the Supreme Court and judges on the Court of Appeals shall be subject to election in 2007.

(2) One-fourth (1/4) of the offices for justices on the Supreme Court and judges on the Court of Appeals shall be subject to election in 2009.

(3) One-fourth (1/4) of the offices for justices on the Supreme Court and judges on the Court of Appeals shall be subject to election in 2011.

(4) One-fourth (1/4) of the offices for justices on the Supreme Court and judges on the Court of Appeals shall be subject to election in 2015.

To accomplish the staggering of judicial offices under this subsection, the General Assembly may shorten or extend the term of a person who is a justice of the Supreme Court or a judge of the Court of Appeals on the date this amendment is ratified.

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